

WORKING WITH A REAL ESTATE PROFESSIONAL

Pursuant to the Tennessee Real Estate Broker License Act, every Real Estate Licensee owes the following duties to every Buyer and Seller, Tenant and Landlord (collectively “Buyers” and “Sellers”):

1. To diligently exercise reasonable skill and care in providing services to all parties to the transaction.
2. To disclose to each party to the transaction any Adverse Facts of which Licensee has actual notice or knowledge.
3. To maintain for each party in a transaction the confidentiality of any information obtained by a Licensee prior to disclosure to all parties of a written agency agreement entered into by the Licensee to represent either or both parties in the transaction. This duty of confidentiality extends to any information which the party would reasonably expect to be held in confidence, except for any information required by law to be disclosed.
4. To provide services to each party to the transaction with honesty and good faith.
5. To disclose to each party to the transaction timely and accurate information regarding market conditions that might affect such transaction only when such information is available through public records and when such information is requested by a party.
6. To give timely account for earnest money deposits and all other property received from any party to a transaction.
7. To refrain from engaging in self-dealing or acting on behalf of Licensee’s immediate family, or on behalf of any other individual, organization or business entity in which Licensee has a personal interest without prior disclosure of such personal interest and tile timely written consent of all parties to the transaction.
8. To refrain from recommending to any party to the transaction the use of services of another individual, organization or business entity in which the Licensee has an interest or from whom the Licensee may receive a referral fee or other compensation for the referral, other than referrals to other Licensees to provide real estate services, without timely disclosure to the party who receives the referral, the Licensee’s interest in such referral or the fact that a referral fee may be received.

In addition to the above, the Licensee has the following duties to his/her Client if the Licensee has become an Agent or Designated Agent in a transaction:

1. Obey all lawful instructions of the client when such instructions are within the scope of the agency agreement between the Licensee and Licensee’s client.
2. Be loyal to the interests of the client. Licensee must place tile interests of tile client before all others in negotiation of a transaction and in other activities, except where such loyalty/duty would violate Licensee’s duties to a customer in the transaction.

Unless the following duties are specifically and individually waived in writing by a client, Licensee shall assist the client by:

1. Scheduling all property showings on behalf of the client.
2. Receiving all offers and counter offers and forwarding them promptly to the client.

3. Answering any questions that the client may have in negotiation of a successful purchase agreement within the scope of the Licensee's expertise.
4. Advising the client as to whatever forms, procedures and steps are needed after execution of the purchase agreement for a successful closing of the transaction.

Upon waiver of any of the above duties, a consumer must be advised in writing by such consumer's agent that the consumer may not expect or seek assistance from any other licensees in the transaction for the performance of the above.

AN EXPLANATION OF TERMS

Facilitator / Transaction Broker (not an agent for either party):

The licensee is not working as an agent for either party in this consumer's prospective transaction. A facilitator may advise either or both of the parties to a transaction but cannot be considered a representative or advocate of either party. "Transaction Broker" may be used synonymously with, or in lieu of, "facilitator" as used in any disclosures, forms or agreements. [By law, any licensee or company who has not entered into a written agency agreement with either party in the transaction is considered a Facilitator or Transaction Broker until such time as an agency agreement is established.]

Agent or Subagent for the Seller:

The licensee's company is working as an agent for the property seller and owes primary loyalty to the seller. Even if the licensee is working with a prospective buyer to locate property for sale, rent, or lease, the licensee and his/her company are legally bound to work in the best interests of any property owners whose property is shown to this prospective buyer. An agency relationship of this type cannot, by law, be established without written consent.

Agent for the Buyer:

The licensee's company is working as an agent for the prospective buyer, owes primary loyalty to the buyer, and will work as an advocate for the best interests of the buyer. An agency relationship of this type cannot, by law, be established without a written buyer agency agreement.

Disclosed Dual Agent (for both parties):

Refers to a situation in which the licensee has agreements to provide services as an agent to more than one party in a specific transaction and in which the interests of such parties are adverse.

Designated Agent for the Seller:

The individual licensee that has been assigned by his/her Managing Broker and is working as an agent for the seller or property owner in this consumer's prospective transaction, to the exclusion of all other licensees in his/her company. Even if someone else in the licensee's company represents a possible buyer for this seller's property, the Designated Agent for the Seller will continue to work as an advocate for the best interests of the seller or property owner. An agency relationship of this type cannot, by law, be established without a written agency agreement.

Designated Agent for the Buyer:

The individual licensee that has been assigned by his/her Managing Broker and is working as an agent for the buyer in this consumer's prospective transaction, to the exclusion of all other licensees in his/her company. Even if someone else in the licensee's company represents a seller in whose property the buyer is interested, the Designated Agent for the Buyer will continue to work as an advocate for the best interests of the buyer. An agency relationship of this type cannot, by law, be established without a written agency agreement.

Adverse Facts:

"Adverse Facts" means conditions or occurrences generally recognized by competent licensees that have a negative impact on the value of the real estate, significantly reduce the structural integrity of improvements to real property or present a significant health risk to occupants of the property.

CONFIDENTIALITY:

By law, every licensee is obligated to protect some information as confidential. This includes any information revealed by a consumer which may be helpful to the other party IF it was revealed by the consumer BEFORE the licensee disclosed an agency relationship with that other party. AFTER the licensee discloses that he/she has an agency relationship with another party, any such information which the consumer THEN reveals must be passed on by the licensee to that other party.